

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

CECIL LUMONT BRADFORD,)	
ID # 31163-177,)	
Movant,)	No. 3:05-CV-0667-D
vs.)	No. 3:03-CR-0280-D (01)
)	
UNITED STATES OF AMERICA,)	
Respondent.)	

ORDER

After reviewing all relevant matters of record in this case, including the findings, conclusions, and recommendation of the United States Magistrate Judge, in accordance with 28 U.S.C. § 636(b)(1), the undersigned is of the opinion that the findings and conclusions of the magistrate judge are correct, and they are adopted as the findings and conclusions of the court.


For the reasons stated in the findings, conclusions, and recommendation, movant's April 13, 2009 motion to reopen pursuant to 28 U.S.C. Rule 60(b)(5) and (6) is construed as a successive motion to vacate filed pursuant to 28 U.S.C. § 2255. The clerk of the court is directed to open a new civil action for administrative purposes only, file the motion to reopen in that action as a § 2255 motion filed April 13, 2009, and, without further judicial action, transfer the new § 2255 action to the United States Court of Appeals for the Fifth Circuit as a successive motion to vacate, pursuant to *Henderson v. Haro*, 282 F.3d 862, 864 (5th Cir. 2002), and *In re Epps*, 127 F.3d 364, 365 (5th Cir. 1997), and statutorily close the new civil action.

For purposes of continuity, the clerk shall directly assign the new civil case to the same district judge and magistrate judge as in Civil Action No. 3:05-CV-0667-D. In addition, a copy of this order shall be filed in the new case as an order of transfer.

On May 29, 2009 movant filed a motion to expedite recommendation of magistrate judge. Although the motion is not entirely clear, it appears to request that the court act promptly on the magistrate judge's recommendation. To the extent it seeks such relief, the motion is denied as moot because the court is adopting the recommendation today. To the extent the motion seeks such relief, it is denied.

SO ORDERED.

June 2, 2009.



SIDNEY A. FITZWATER
CHIEF JUDGE